**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**C.R. NO. 291 Of 2000.**

**Date of decision : 05.7.2007**.

Keemat Lal ..... Petitioner.

Vs.

M/s Bata India Limited. ..... Respondent.

Coram
**The Hon'ble Mr.Justice Surinder Singh, Judge.**

*Whether approved for reporting? No.*

**For the petitioner**: Mr. Ajay Kumar, Advocate.

**For the respondent:** Mr. K.D. Sood, Advocate.

**Surinder Singh, J (oral):**

This civil revision petition preferred by the landlord under Section 24(5) of the Himachal Pradesh Urban Rent Control Act, 1987 against the order dated 2.6.2000, passed by the Appellate Authority (1), Kangra, in Rent Appeal No. 31-P/98, whereby the appeal of the petitioner-landlord was dismissed

In brief, the factual matrix of the case is that the petitioner-landlord had filed an eviction petition against the respondent-tenant under Section 14(2) of the H.P. Urban Rent Control Act, 1971, with respect to his shop, situated in Khasra no.612, in Mohal Palampur-Khas in Municipal Ward No.6. It was alleged that the shop in question was initially rented out for a period of 15 years at rate of Rs.800/- per month and this period was later on extended to five years. Therefore, the terms of the agreement expired on 31st December, 1995 and the shop was to be vacated by the respondent on the said date and the

*Whether reporters of local Papers may be allowed to see the judgment? Yes.*

next ground was that the said premises were required by the petitioner-landlord for his own bonafide use and occupation.

The respondent-tenant laid a strong resistance to the claim of the petitioner and took up the ground of maintainability, jurisdiction, non-joinder of necessary parties and estoppel in the preliminary objections. The agreement as alleged was denied. It was stated that it was a monthly and permanent tenancy. The ground as alleged for vacation was denied. According to the respondent, the petitioner was having his own shop for his own occupation within the municipal ward of Palampur, thus, prayed for dismissal of the petition.

In rejoinder, the petitioner herein denied the preliminary objections and also the claim of the respondent. On the pleading of the parties, the learned Rent Controller framed various issues to decide the controversy. At the end of the trial, the petitioner-landlord was non-suited because of findings on issues No.1,2 and 7 against him. The petitioner filed an appeal before the Appellate Authority, assailing the order of the Rent Controller. Upon hearing the parties and going through the record of the Rent Controller, the Appellate Authority held that the ground to the petitioner-landlord to vacate the shop from his tenant, on the ground of bonafide use and occupation was not available under the Act aforesaid, being a non-residential accommodation, consequently, dismissed the appeal.

Against the order of the appellate authority, present revision petition has been filed that the appellate authority

did not appreciate properly the contention raised by the petitioner-landlord and it has wrongly applied the ratio of the decision of the apex Court, reported in **Harbilas Rai Bansal** v. **State of Punjab** [**AIR 1996 SC 857**].

I have heard the learned counsel for the parties and gone through the orders of both the authority below.

As a matter of fact, the provision of Section 14(3)(a)(i) of the H.P. Urban Rent Control Act, 1971 provides for the vacation of the tenant from the residential buildings alone, in case the same is required for own use and occupation by the landlord and not in case of non-residential building, which, in the present case is a shop and the ground taken by the petitioner-landlord is not included in Section 14(2) of the Act. Therefore, the learned tribunals below have rightly held that the petitioner-landlord cannot seek eviction of the respondent, with respect to the premises in question, on the ground of his bonafide use and occupation.

Since on the perusal of the impugned order of the appellate authority, I did not find any illegality in the impugned order, therefore, the revision petition merits dismissal, which is accordingly dismissed.

The matter stands disposed of.

July 5,2007.
(Pds)

**(Surinder Singh)**
**Judge**.